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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 MYRON HARGREAVES, CORTNEY
8 HALVORSEN, BONNIE FREEMAN,
9 and all others similarly situated,

10 Plaintiffs,

11 v.

12 ASSOCIATED CREDIT SERVICES,
13 INC., a Washington corporation, and
14 PAUL J. WASSON AND MONICA
15 WASSON, individually and the marital
16 community,

17 Defendants.

18 NO: 2:16-CV-0103-TOR

19 ORDER DENYING PLAINTIFFS'
20 MOTION FOR RECONSIDERATION
21 AND CERTIFICATION OF
22 INTERLOCUTORY APPEAL

23 BEFORE THE COURT are Plaintiffs' Motion for Reconsideration and
24 Alternatively, Certification of an Interlocutory Appeal, Motion to Continue Deadline
25 for Filing Motion for Summary Judgment and Motion to Expedite each of these
26 motions. ECF Nos. 86, 87, 88. The Court has reviewed the briefing, the record and
27 files herein, and is fully informed. While these matters were noted for hearing
28 without oral argument on October 25, 2017, in accordance with the Court's Jury Trial

1 Scheduling Order, ECF No. 16 at 7, and the Local Rules, the Court resolves these
2 matters without inviting a response from Defendants.

3 **PLAINTIFFS' MOTION FOR RECONSIDERATION**

4 Plaintiffs seek reconsideration of the Court's denial of class certification arguing
5 that the Court's ruling on lack of numerosity is really a denial based on
6 ascertainability, which is not a requirement for class certification. ECF No. 86 at 7.
7 Indeed, Plaintiffs contend that "all necessary information can be readily determined
8 by reference to documents in the court files already identified – specifically, the writs
9 of garnishment, answers to writ, judgments on answer, and satisfactions." *Id.* at 8.

10 By simply identifying the universe of potential class members to include every
11 garnishment action filed by Defendants within the statute of limitations, Plaintiffs
12 have not established numerosity in order to support class certification. By simply
13 saying that the answer to the question of how many class members there are lies
14 within the state court records, does not satisfy this Court's obligation to conduct a
15 "rigorous analysis" that the prerequisites of Rule 23(a) have been satisfied. *See Wal-*
16 *Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350–51 (2011). "A party seeking class
17 certification must affirmatively demonstrate his compliance with the Rule—that is, he
18 must be prepared to prove that there are *in fact* sufficiently numerous parties,
19 common questions of law or fact, etc." *Id.* at 350 (emphasis in original).

1 Moreover, Plaintiffs are not “representative” of their proposed classes because
2 their complaint only concerned collection of consumer debt by garnishment of bank
3 accounts, not the universe of garnishment proceedings. They have no standing to
4 assert more violations than those for which they were allegedly harmed. “[A] class
5 representative must be part of the class and possess the same interest and suffer the
6 same injury as the class members.” *Id.* at 348–49 (citations and internal quotation
7 omitted).

8 To the extent class certification is committed to the discretion of the Court, the
9 Court declines to certify under these circumstances. Moreover, the Court has now
10 granted Defendants’ partial summary judgment, further making this case ineligible
11 and impracticable for class certification. Plaintiffs’ Motion to Reconsider is denied.

12 **MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL**

13 Alternatively, Plaintiffs seek certification for interlocutory appeal under 28
14 U.S.C. § 1292(b). Plaintiffs are mistaken. Federal Rule of Civil Procedure 23(f)
15 allows a litigant to seek an interlocutory appeal in the court of appeals. This Court
16 has no role in granting permission for an appeal. *See Lambert v. Nutraceutical Corp.*,
17 870 F.3d 1170 (9th Cir. 2017). The Court declines to bypass the Supreme Court’s
18 rule that was the “product of careful calibration.” *Microsoft Corp. v. Baker*, 137
19 S.Ct. 1702, 1709 (2017). Plaintiffs’ motion for certification of interlocutory appeal is
20 denied.

1 **MOTION TO CONTINUE DEADLINE FOR SUMMARY JUDGMENT**

2 Plaintiffs seek an extension of the deadline to submit dispositive motions,
3 reasoning “[n]ow that the Court has denied the Plaintiffs’ motion for class
4 certification, summary judgment is appropriate and will likely dispose of the
5 remaining issues in the case.” ECF No. 87 at 2. Moreover, the Court has resolved
6 Defendants’ partial summary judgment motion, drastically changing the complexion
7 of this case. For good cause shown, Plaintiffs’ motion is granted.

8 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 9 1. Plaintiffs’ Motion to Expedite (ECF No. 88) is **GRANTED**.
- 10 2. Plaintiffs’ Motion for Reconsideration and Alternatively, Certification of an
11 Interlocutory Appeal (ECF No. 86) is **DENIED**.
- 12 3. Plaintiffs’ Motion to Continue Deadline for Filing Motion for Summary
13 Judgment (ECF No. 87) is **GRANTED**. **The parties are allowed until**
14 **November 1, 2017 to file any remaining dispositive motions.**

15 The District Court Executive is directed to enter this Order and provide copies
16 to the parties.

17 **DATED** October 20, 2017.



A handwritten signature in blue ink that reads "Thomas O. Rice".

20 THOMAS O. RICE
Chief United States District Judge